


## **EXHIBIT I**

Damian Capozzola/Los Angeles/Kirkland-Ellis

02/08/2006 07:11 PM

To "Timothy J. Hogan" <tjh@loio.com>  
bls@ksqlaw.com, eliebeler@kirkland.com, lex@gte.net, lrs@ksqlaw.com, lsh@hosodalaw.com,  
cc lshosoda@hotmail.com, mbaumann@kirkland.com, rpbm@hosodalaw.com, "Limongelli, Victor" <victor.limongelli@guidancesoftware.com>  
Allison Andrews/Los Angeles/Kirkland-Ellis@K&E; Ed  
bcc Yep/Los Angeles/Kirkland-Ellis@K&E; Neal San Diego/Los Angeles/Kirkland-Ellis@K&E  
Subject RE: Original Logistics data.mdb 

Mr. Hogan:

Do you dispute that the data contained in the May 9, 2003 version you received yesterday are any different than the data in the file at Server FHL\D\ORIGINAL LOGISTICS DATA4.MDB? If so, please provide concrete examples.

As you requested, attached please find a pdf of the disk that went to Dr. Walker on May 6, 2005 (referenced at PCT-B MW 02864), prefaced by your original June 25, 2004 transmission.

Dr. Walker's reports speak for themselves.

--Damian Capozzola



- Guidance Software Disk.pdf

**Damian D. Capozzola | KIRKLAND & ELLIS LLP**

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"Timothy J. Hogan" <tjh@loio.com>



"Timothy J. Hogan"  
<tjh@loio.com>

02/08/2006 03:48 PM

To "Damian Capozzola" <dcaپozzola@kirkland.com>  
<bls@ksqlaw.com>, <eliebeler@kirkland.com>, <lex@gte.net>, <lrs@ksqlaw.com>, <lsh@hosodalaw.com>,  
cc <lshosoda@hotmail.com>, <mbaumann@kirkland.com>, <rpbm@hosodalaw.com>, "Limongelli, Victor" <victor.limongelli@guidancesoftware.com>  
Subject RE: Original Logistics data.mdb

Mr. Capozzola:

When you open the one Lex retrieved from his stash yesterday (your and Smith's withholding of proof it came from Chicago again noted) the API switchboard pops up. The one you refer to does not have the API popup, and I see no need to waste any more time on this. A child could see that they are not the

same. I don't know what to say about Walker. In any event, you moved for Rule 56(f) on the basis that you didn't have this file and that is fraud on the Court. In addition Walker's report says he was looking at this database not the queries. He found 1300+ fields and put them in his report. The queries have less 300 fields. He is either making it up (grounds to set aside the court's findings) or was looking at a file you claim to have not given him (grounds to set aside the court's findings). You can't explain this away and I note that despite having more than ample opportunity to set the record straight you have reverted to the K&E mantra that all is denied.

As to Walker, his report lacks a statement regarding what he reviewed and now it is clear why.

Also, what was on the CD you gave Walker on May 6, 2005? I don't recall getting a copy of that.

Tim Hogan

---

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---

**From:** Damian Capozzola [<mailto:dcapozzola@kirkland.com>]  
**Sent:** Wednesday, February 08, 2006 12:12 PM  
**To:** Timothy J. Hogan  
**Cc:** [bls@ksqlaw.com](mailto:bls@ksqlaw.com); [eliebeler@kirkland.com](mailto:eliebeler@kirkland.com); [lex@gte.net](mailto:lex@gte.net); [lrs@ksqlaw.com](mailto:lrs@ksqlaw.com); [lsh@hosodalaw.com](mailto:lsh@hosodalaw.com); [lshosoda@hotmail.com](mailto:lshosoda@hotmail.com); [mbaumann@kirkland.com](mailto:mbaumann@kirkland.com); [rpbm@hosodalaw.com](mailto:rpbm@hosodalaw.com); Limongelli, Victor  
**Subject:** RE: Original Logistics data.mdb

Mr. Hogan:

I didn't share with Dr. Walker any copy of Original Logistics Data.mdb that was not either on the Guidance images produced to you or otherwise received from you or produced to you. Dr. Walker first saw the May 9, 2003 version yesterday. He has since verified that the content on the "before images" file at filepath (Server FHL-D\ORIGINAL LOGISTICS DATA4.MDB) is identical to the content of the file on the CD you received yesterday from Mr. Smith's office. This file (at Server FHL-D\ORIGINAL LOGISTICS DATA4.MDB) was produced to you in September, 2005 and again in late January, 2006.

If you would take the time to read Dr. Walker's reports and my previous e-mails on these topics, you would see that your concerns are baseless. In any event, except as addressed above, the rest of your

allegations are denied. I again urge you to drop this irrelevant issue.

--Damian Capozzola

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"Timothy J. Hogan"  
<tjh@loio.com>

02/08/2006 12:06  
PM

To "Damian Capozzola" <dcaپozzola@kirkland.com>  
<bls@ksqglaw.com>, <eliebeler@kirkland.com>, <lex@gte.net>, <lrs@ksqglaw.com>,  
cc <lsh@hosodalaw.com>, <lshosoda@hotmail.com>, <mbaumann@kirkland.com>,  
<rpbm@hosodalaw.com>, "Limongelli, Victor" <victor.limongelli@guidancesoftware.com>  
Subject RE: Original Logistics data.mdb

Dear Mr. Capozzola:

You still have not explained how you could have shared a copy of the Original Logistics Data.mdb with Walker that is not on the Guidance images produced to us. That silence is an admission that you either concealed additional copies or removed relevant evidence from the images. Hardly irrelevant if it is grounds to reverse the previous findings under 60(b) and revoke your firm's Pro Hac Vice.

As to Walker, you admit to giving him a copy of the illegally obtained and fraudulently concealed, pirated Berry database that we got from Lex Smith yesterday, without our permission. Advise Walker that we don't consent to his copying for any purpose this pirated software until you obtain a court order to permit it. As to the similarities in the two programs, you failed to provide the software you shared with him. Anything he says is irrelevant and must be stricken. So we are clear, you admit that you have made additional copies of unprotected pirated software without any right, license or court order for your financial gain.

In addition, both your and Mr. Smith's failure to produce any evidence that this software was sent from Chicago to Smith proves that you have kept a stash of pirated software likely with C&S or with the PCT's concurrent attorney Smith.

Finally, we have very compelling evidence that a copy of the Berry system is being run at C&S as we speak and will bring this whole matter to a head shortly.

Tim Hogan

---

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---

**From:** Damian Capozzola [<mailto:dcazzola@kirkland.com>]  
**Sent:** Wednesday, February 08, 2006 9:42 AM  
**To:** Timothy J. Hogan  
**Cc:** [bls@ksqlaw.com](mailto:bls@ksqlaw.com); [eliebeler@kirkland.com](mailto:eliebeler@kirkland.com); [lex@gte.net](mailto:lex@gte.net); [lrs@ksqlaw.com](mailto:lrs@ksqlaw.com); [lsh@hosodalaw.com](mailto:lsh@hosodalaw.com); [lshosoda@hotmail.com](mailto:lshosoda@hotmail.com); [mbaumann@kirkland.com](mailto:mbaumann@kirkland.com); [rpbm@hosodalaw.com](mailto:rpbm@hosodalaw.com); Limongelli, Victor  
**Subject:** RE: Original Logistics data.mdb

Mr. Hogan,

I have conceded no such thing, nor did that ever happen. More generally, your barrage of e-mails reflects that you have not read (or at least not understood) Dr. Walker's reports in their entirety and that you have not correctly analyzed the electronic version of Original Logistics Data.mdb that you received from Mr. Smith's office yesterday. Dr. Walker has confirmed that electronic version is substantively identical to a version that was previously produced. You have suffered no prejudice, and to the extent not already addressed your substantive allegations are denied. I urge you to drop this irrelevant issue.

--Damian Capozzola

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"Timothy J. Hogan"  
<[tjh@loio.com](mailto:tjh@loio.com)>

02/08/2006 10:58 AM

To "Limongelli, Victor" <[victor.limongelli@guidancesoftware.com](mailto:victor.limongelli@guidancesoftware.com)>  
<[bls@ksqlaw.com](mailto:bls@ksqlaw.com)>, <[dcazzola@kirkland.com](mailto:dcazzola@kirkland.com)>, <[eliebeler@kirkland.com](mailto:eliebeler@kirkland.com)>,  
cc <[lrs@ksqlaw.com](mailto:lrs@ksqlaw.com)>, <[lex@gte.net](mailto:lex@gte.net)>, <[lshosoda@hotmail.com](mailto:lshosoda@hotmail.com)>, <[lsh@hosodalaw.com](mailto:lsh@hosodalaw.com)>,  
<[mbaumann@kirkland.com](mailto:mbaumann@kirkland.com)>, <[rpbm@hosodalaw.com](mailto:rpbm@hosodalaw.com)>  
Subject RE: Original Logistics data.mdb

Not correct. I got the After DVD on June 20, 2005 that was given to the master after the privilege issue was raised. We got Before materials that were redacted by Mr. Smith in September, by my recollection. We got on 1-26-05 what was purported to be unredacted Before files with the exception of files on the privilege log. No spreadsheet listings of files produced by Guidance were provided with that production nor do they appear on the log.

So it is clear, we specifically requested the all "mdb" databases but did not get them. Mr. Capozzola concedes that he was sharing a copy of Original Logigistics Data.mdb with Walker that has never been produced to us. Either you produced them and C&S/PCT removed them, or you didn't produce them, or like the Chicago version, the PCT/C&S has its own stash. I don't see any other conclusion.

In addition, I don't recall getting any transmittal regarding the turn over to the master of the Before materials. Can you see that a copy reaches me.

Thank you,

Tim Hogan

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-----Original Message-----

From: Limongelli, Victor [<mailto:victor.limongelli@guidancesoftware.com>]

Sent: Wednesday, February 08, 2006 8:18 AM

To: Timothy J. Hogan

Cc: [bls@ksglaw.com](mailto:bls@ksglaw.com); [dcapozzola@kirkland.com](mailto:dcapozzola@kirkland.com); [eliebeler@kirkland.com](mailto:eliebeler@kirkland.com); [lrs@ksglaw.com](mailto:lrs@ksglaw.com); [lex@gte.net](mailto:lex@gte.net); [lshosoda@hotmail.com](mailto:lshosoda@hotmail.com); [lsh@hosodalaw.com](mailto:lsh@hosodalaw.com); [mbaumann@kirkland.com](mailto:mbaumann@kirkland.com); [rpbm@hosodalaw.com](mailto:rpbm@hosodalaw.com)

Subject: Re: Original Logistics data.mdb

Mr. Hogan,

I'm not in the office but I can check when I get back. If my memory serves me correctly, however, I believe that you received our production directly from us, and that you later turned it over to the PCT when they raised privilege concerns.

Regards,  
Victor Limongelli

-----Original Message-----

From: Timothy J. Hogan <tjh@loio.com>  
To: Limongelli, Victor <victor.limongelli@guidancesoftware.com>  
CC: bls@ksqlaw.com <bls@ksqlaw.com>; dcaPOZZola@kirkland.com <dcaPOZZola@kirkland.com>; eliebeler@kirkland.com <eliebeler@kirkland.com>; lrs@ksqlaw.com <lrs@ksqlaw.com>; lex@gte.net <lex@gte.net>; lshosoda@hotmail.com <lshosoda@hotmail.com>; lsh@hosodalaw.com <lsh@hosodalaw.com>; mbaumann@kirkland.com <mbaumann@kirkland.com>; rpbm@hosodalaw.com <rpbm@hosodalaw.com>  
Sent: Wed Feb 08 09:47:56 2006  
Subject: RE: Original Logistics data.mdb

Mr. Limongelli:

So I understand, the only spreadsheet that was appended to the Guidance Before files that I received from Walker and the PCT on 1 26 06 was "Suspect Files - Before-not exported" with a creation date of July 12, 2005 at 8:32 am. Can you please confirm that this was the only spreadsheet that was, as you wrote, "attached" to the materials you provided to the the PCT and the Master. So we are clear, did you provide a spreadsheet that documented what Guidance produced as opposed to what it did not produce?

I would appreciate a prompt response as this is a matter of some urgency.

Tim Hogan

---

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-----Original Message-----

From: Limongelli, Victor [mailto:victor.limongelli@guidancesoftware.com]

Sent: Wednesday, February 08, 2006 7:25 AM  
To: Timothy J. Hogan  
Cc: bls@ksqlaw.com; dcaPOZZola@kirkland.com; eliebeler@kirkland.com; lrs@ksqlaw.com; lex@gte.net; lshosoda@hotmail.com; lsh@hosodalaw.com; mbaumann@kirkland.com; rpbm@hosodalaw.com  
Subject: Re: Original Logistics data.mdb

Me. Hogan,

There is no way we can confirm (or understand) your contentions about any copy of the Berry database (or any other file) being produced to you, or not being produced to you, by the PCT. You may want to direct to the PCT any and all contentions or questions concerning the PCT's production to you. We stand by our production to the PCT and the Master, which was documented by the spreadsheets attached thereto.

As I have stated earlier, as a courtesy we will send duplicate copies of the four files you have requested (which files you already have) for delivery by the end of the week.

Regards,  
Victor Limongelli

-----Original Message-----

From: Timothy J. Hogan <tjh@loio.com>  
To: Limongelli, Victor <victor.limongelli@guidancesoftware.com>  
CC: Brenda Sakamoto <bls@ksglaw.com>; Damian Capozzola (E-mail) <dcapozzola@kirkland.com>; Eric Liebler (E-mail) <eliebler@kirkland.com>; Lex Smith <lrs@ksglaw.com>; Lex Smith (E-mail) <lex@gte.net>; Lyle Hosoda (E-mail) <lshosoda@hotmail.com>; Lyle Hosoda (E-mail) <lsh@hosodalaw.com>; Michael Baumann <mbaumann@kirkland.com>; Raina Mead <rpbm@hosodalaw.com>  
Sent: Tue Feb 07 17:42:06 2006  
Subject: FW: Original Logistics data.mdb

Mr. Limongelli:

Mr. Capazzola has confirmed that we did not get the full number of Original Logistics Data.mdb that were on your clients system. Please provide these fiiles to me immediatly. We note, that these were not produced as ordered.

Tim Hogan

---

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Query3	Name	Description
File Ext	File Created	
Last Accessed		



Last Written Physical Size Path	Entry Modified Full	Logical Size
MDB	Priority	Sequence
Archive	ORIGINAL LOGISTICS DATA.MDB	File,
9:23:00 PM	7/4/2003	
7:52:00 PM	3/31/2003 6:12:00 PM	6/8/2003
6/9/2003 1:10:00 PM		
Fleming !st	100239360	100241408
Acq\Server FHL*D\Data\Backup\ORIGINAL LOGISTICS DATA.MDB		
76665		2
MDB	ORIGINAL LOGISTICS DATA.MDB	
Archive	7/4/2003	File,
9:38:00 PM		
9:38:00 PM	4/24/2003 6:22:00 PM	7/4/2003
7/4/2003 9:38:00 PM		
Fleming !st	100239360	100241408
Acq\Server FHL*D\Data\ORIGINAL LOGISTICS DATA.MDB		
76664		2
MDB	ORIGINAL LOGISTICS DATA.MDB	
Recycled, Archive		File,
4/24/2003 11:16:00 AM		
4/15/2003 1:28:00 PM	4/9/2003 1:16:00 PM	
4/15/2003 1:28:00 PM		
Fleming !st	103376896	103378944
Acq\Server		
FHL*D\RECYCLER\S-1-5-21-801508139-2146130919-1846952604-500\Test		
DB\ORIGINAL LOGISTICS DATA.MDB		2
MDB	ORIGINAL LOGISTICS DATA.MDB	76662
Archive	6/12/2003	File,
6:50:00 PM		
6:50:00 PM	6/7/2003 1:56:00 PM	6/12/2003
6/12/2003 6:50:00 PM		
Fleming !st	100239360	100241408
Acq\Server FHL*D\Source\Archive\Database\Database Backup Prior to		
Spreadsheets\ORIGINAL LOGISTICS DATA.MDB		2
76667		
MDB	ORIGINAL LOGISTICS DATA.MDB	
Archive	5/22/2003	File,
4:19:00 PM		
4:19:00 PM	5/9/2003 3:08:00 PM	5/22/2003
5/22/2003 4:19:00 PM		
Fleming !st	89987072	89989120
Acq\Server FHL*D\Source\Archive\Database\Licensed Database as Used on		
050903\ORIGINAL LOGISTICS DATA.MDB		2
MDB	ORIGINAL LOGISTICS DATA.MDB	76666
Archive	4/17/2003	File,
7:33:00 PM		
7:33:00 PM	4/10/2003 5:40:00 PM	4/17/2003
4/17/2003 7:33:00 PM		
Fleming !st	204654592	204656640
Acq\Server FHL*D\Source\Archive\Database\Pre Purge Original Logistics		
Data\ORIGINAL LOGISTICS DATA.MDB		2
		76663

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\*\*\*\*\*